



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Appeal No.703 of 2021

1. Ramesh
2. Ajith
3. Ajithkumar
4. Mullaiventhan

... Appellants /  
Accused Rank Not Found

..Vs..

1. The Deputy Superintendent of Police,  
Thiruvannamalai (Town Sub-Division).  
Thiruvannamalai Taluk & District.
2. State By,  
The Inspector of Police,  
Thiruvannamalai East Police Station,  
Thiruvannamalai District.  
Crime No.787/2021.

3. Thomni

... Respondents / Complainants

PRAYER: Criminal Appeal filed under Section 14A of Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, to allow the Criminal Appeal and set aside the order passed by the Special Court for Trial of Cases under SC/ST(POA) Act, Thiruvannamalai in CrI.M.P.No.1026/2021 dated 09.12.2021 and enlarge the Appellant on bail in Crime No.787 of 2021 on the file of the Inspector of Police, Thiruvannamalai East Police Station, Thiruvannamalai District.

|                 |   |                                                                                       |
|-----------------|---|---------------------------------------------------------------------------------------|
| For Appellants  | : | Mr.S.Silambuselvan                                                                    |
| For Respondents | : | Mr.S.Sugendran for R1 & R2<br>Government Advocate (CrI. Side)<br>No Appearance for R3 |

O R D E R

This Criminal appeal has been filed against the dismissal of the bail application filed in CrI.M.P.No.1026/2021 by order dated 09.12.2021.



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2. The brief facts of the prosecution as per the defacto complainant Thomni is that he is the resident of Kilnathur Colony and that one Guhan had taken lease of the fishery right in his village for the past two years and the defacto complainant was working as a watchman for the said Guhan. On 29.11.2021, five unknown persons who could be identified from Vaniyathangal Village were fishing in the lake and when he had questioned them as to why they were fishing in the Lake given on lease to the said Guhan, the said persons had assaulted him and kidnapped him in a two wheeler and taken to a Mill belonging to the erstwhile president one Gopi and had assaulted the defacto complainant with hands and stones. They had also abused and humiliated the defacto complainant by calling his caste name. On the complaint given by Thomni, a case in Crime No.787 of 2021 was registered on 30.11.2021 for the offence under Sections 147, 294(b), 342, 324, 365 of I.P.C r/w 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989. The appellants were arrested on 30.11.2021 and in custody for nearly two months. The appellants had filed Crl.M.P.No.1026 of 2021, before the Special Court for Trial of Cases under SC/ST(POA) Act, Thiruvannamalai and the petition had been dismissed on 09.12.2021, against which, the present appeal has been filed.

3. Learned counsel appearing for the appellants would submit that the appellants are poor villagers and they were fishing in the village lake. At the time, the defacto complainant claiming that the leasehold right is given to one Guhan, had abused the appellants, due to which there was altercation. The defacto complainant taking advantage of the fact that he belongs to a oppressed community, had given a false complaint as if the appellants had kidnapped him in a two wheeler. He would further submit that the injured has been discharged from the hospital and major part of the investigation is also over. He would further submit that the appellants are in custody from 30.11.2021 for the past 51 days.

4. Mr.S.Sugendran, learned Government Advocate (crl.side) appearing for the respondents 1 and 2 would submit that the defacto complainant is working as a watchman of the village lake where fishery right was given on lease to one Guhan. The appellants who are the residents of Vaniyathangal village had fished in the tank and when it was objected to by the defacto complainant, they have kidnapped him in a two wheeler to a Mill belonging to One Gopi and they assaulted the defacto complainant with hands and stones. He would further submit that the co-accused in this case are absconding. Further, the injured has been discharged from the hospital and meanwhile, investigation is also completed.



5. Heard the learned counsels and perused the materials on record.

6. Though private notice has been served on the third respondent and his name printed in the cause list, there is no representation for the third respondent. The first respondent filed a counter affidavit.

7. Taking into consideration of the facts and also taking into consideration that the injured has been discharged from the hospital and the appellants are in custody from 30.11.2021 and also the investigation in respect of the appellants has been completed, this Criminal Appeal stands allowed and the order passed in CrI.M.P.No.1026 of 2021 dated 09.12.2021 stands set aside.

8. In view of the above, this Court is inclined to grant bail to the appellants/accused on the following conditions:

(a) Accordingly, the appellants are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Sessions Judge (Special Court for Trial of Cases under SC/ST(POA) Act), Thiruvannamalai and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the appellants on their release from prison shall report before the respondent police daily at 10.30a.m. until further orders. The appellants shall not leave the jurisdictional limits of the respondent police.

(d) the appellants shall not commit any offences of similar nature;

(e) the appellants shall not abscond during investigation or trial;

(f) the appellants shall not tamper with evidence or witness during investigation or trial;



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(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-  
Assistant Registrar

True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Sessions Judge,  
Special Court for Trial of Cases under SC/ST(POA) Act,  
Thiruvannamalai
2. The Deputy Superintendent of Police,  
Thiruvannamalai (Town Sub-Division).  
Thiruvannamalai Taluk & District.
3. The Inspector of Police,  
Thiruvannamalai East Police Station,  
Thiruvannamalai District.  
Crime No.787/2021.
4. The Superintendent,  
Central Prison, Vellore.
5. The Public Prosecutor (Crl side),  
High Court, Madras.

+1cc to Mr.S.Silambuselvan, Advocate, S.R.No.3507

Criminal Appeal No.703 of 2021

AK[co]  
NSK 20/01/2022